

PLAINTIFF: Mary Wolfe

CASE NUMBER:

DEFENDANTS: Kaufman Realty &amp; Auctions of WV, LLC

## II. TYPE OF CASE:

TORTS	OTHER	CIVIL
Asbestos	Adoption	Appeal from Magistrate Case
Professional Malpractice	Contract	Petition for Modification of Magistrate Sentence
Personal Injury <input checked="" type="checkbox"/>	Real Property	Miscellaneous Civil
Product Liability	Mental Health	Other
Other Tort	Appeal for Administrative Agency	

III. JURY DEMAND ☒ YES ☐ NOCASE WILL BE READY FOR TRIAL BY (month/year): 04/2022

IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE?

☐ YES ☐ NO IF YES, PLEASE SPECIFY:

- ☐ Wheelchair accessible hearing room and other facilities  
☐ Interpreter or other auxiliary aid for the hearing impaired  
☐ Reader or other auxiliary aid for the visually impaired  
☐ Spokesperson or other auxiliary aid for the speech impaired  
☐ Other: \_\_\_\_\_

Attorney Name:

T. Keith Gould (7166)

Representing:

The Miley Legal Group, PLLC

☒ Plaintiff ☐ Defendant

229 West Main Street, Suite 400

Clarksburg, WV 26301

(304) 326-1800

Signature: T. Keith GouldDate: 4-26-21

SUMMONS

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

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CASE STYLE

MARY WOLFE and ROBERT WOLFE,  
husband and wife,

Plaintiffs

CASE #: \_\_\_\_\_

JUDGE: \_\_\_\_\_

v.

KAUFMAN REALTY & AUCTIONS OF  
WEST VIRGINIA, LCC,

Defendant.

To the above-named Defendant, KAUFMAN REALTY & AUCTIONS OF WV, LLC, C/O  
ANDREW YODER, JR. 441 EAST MAIN STREET, BRIDGEPORT, WV, 26330:

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon, T. Keith Gould, plaintiff's attorney, whose address is 229 West Main Street, Suite 400, Clarksburg, West Virginia, 26301, an answer including any related counterclaim you may have to the Complaint filed against you in the above styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer to the Complaint within 30 days after service of this summons upon you, exclusive of the day of service. You are also required to serve your answer to the combined discovery requests within forty-five (45) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above styled civil action.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Clerk of Court

By: \_\_\_\_\_

**IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA**

MARY WOLFE and ROBERT WOLFE,  
husband and wife,

Plaintiffs,

v.

\\

Civil Action No.: 21-C-104

KAUFMAN REALTY & AUCTIONS OF  
WEST VIRGINIA, LLC,

Defendant.

**COMPLAINT**

1. The Plaintiffs are husband and wife and reside together in Barbour County, West Virginia, where they have resided at all times relevant to this Complaint.

2. Defendant, Kaufman Realty & Auctions of West Virginia, LLC [Defendant "Kaufman"] is, upon information and belief, a foreign [Ohio] corporation that is registered to do business in the State of West Virginia and which maintains its principal West Virginia office at 399 East Main Street in Bridgeport, Harrison County, West Virginia.

3. Defendant Kaufman does business in Harrison County, West Virginia, as a real estate agency and auction house and has done so at all times relevant to this Complaint.

4. Jurisdiction is proper in the Circuit Court of Harrison County, West Virginia, pursuant to W.Va. Code § 51-2-2(b) as the value of Plaintiff's claims exceed the current jurisdictional minimum of \$7,500.00, exclusive of interest.

5. Venue is proper in the Circuit Court of Harrison County, West Virginia, pursuant to W.Va. Code § 56-1-1(a)(2) based upon the fact that the Defendant maintains a business location and otherwise does business in Harrison County, West Virginia.

#### **Count I – Negligence**

6. The Plaintiff incorporates herein by reference all other paragraphs of this Complaint.

7. On June 27, 2019, the Plaintiffs went to East Grafton Road in Marion County, West Virginia, to pick up items that they had purchased for their farm from the Defendant's on-line auction. The items were marked and contained in a warehouse owned or maintained by the Defendant. When the Plaintiffs arrived at the Defendant's shop, they were instructed by the Defendant's employee to enter the storage area to locate and take their items.

8. While in the storage area, Plaintiff Mary Wolfe was stooped over scanning the tags on the items that were laid out on the floor, attempting to locate the items that the Plaintiffs had purchased, when an employee or owner of the Defendant knocked a 45-pound concrete saw from an upper shelf, causing it to fall and strike Plaintiff Mary Wolfe directly on the head.

9. As a result of being struck as indicated above, Plaintiff Mary Wolfe suffered a severe and permanent traumatic brain injury, among other injuries. The Plaintiff's other associated injuries include, but are not necessarily limited to, cognitive deficits, headaches, tinnitus, dizziness, visual deficits, cervical and thoracic back trauma and the exacerbation of a left knee injury.

10. The Plaintiff's injuries were directly and proximately caused by the Defendant's negligence, which includes its failure to properly store and handle the subject concrete saw.

#### **LOSS OF CONSORTIUM**

11. The Plaintiffs incorporate herein by reference all other paragraphs of this Complaint.

12. The Plaintiffs are husband and wife and were so at the time of the injuries described above.

13. Plaintiff Robert Wolfe is entitled to be compensated for his loss of consortium directly and proximately caused by the Defendant's negligence, including, but necessarily limited to, the loss of his wife's comfort, household contribution, guidance and kindly offices.

**WHEREFORE**, the Plaintiffs seek relief from the Defendant as follows:

- a. Compensatory damages for past and future medical expenses, loss of household services and other such damages in an amount to be determined by the jury upon proper proof presented at trial;

- b. General damages, past and future, for pain, suffering, permanent injury, loss of enjoyment of life, emotional distress, and other such damages in an amount to be determined by the jury upon proper proof presented at trial;
- c. Prejudgment and post-judgment interest;
- d. Costs, expenses and attorneys' fees; and,
- e. Any other such relief, available at law or in equity, that is deemed appropriate as this matter matures for trial.

**THE PLAINTIFFS DEMAND A JURY TRIAL**

Dated this 26<sup>th</sup> day of April 2021

Plaintiffs, by Counsel,



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FILED IN 15TH  
CIRCUIT COURT

2021 APR 26 P 3:38